

DRACUT ZONING BOARD OF APPEALS

Meeting Minutes of December 18, 2014 at 7:00 p.m. @ Dracut Town Hall Selectmen's Meeting Room, 62 Arlington Street, Dracut.

Continued 2014-21 @ 180 Patricia Lane – Variance 2.11.50 relative to setbacks for a pre-existing above ground pool. Petitioner: Filipe B. Medina and Theresa S. Medina. Chairman Crowley read a letter from Attorney Hall, Town Counsel dated December 17, 2014 (copy attached) that states the Board cannot condition the variance to end at change of ownership, but can condition the variance on the life of the pool. A copy was given to Attorney Clermont.

Abutters: Who came forward in favor or in opposition? None.

A motion to close was made by Mr. Hamilton and seconded by Mr. Pagones. The Board voted unanimously to close.

A motion to approve the Variance was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. Mr. Hamilton feels that a hardship has not been proved and feels a variance is not in order. Chairman Crowley agreed there has been no hardship proven. The Board finds the petitioner does not meet the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to deny.

2014-22 & 23 @ 126 Passaconaway Drive – Special Permit 2.16.25 and Variance 2.12.50 for proposed 20'x20' addition with insufficient rear yard setback. Petitioner: Michael Monbleau.

Chairman Crowley opened the meeting and signed in a set of prints drawn by James D. Aho, Professional Land Surveyor dated November 7, 2014.

Mr. and Mrs. Monbleau are seeking a variance for an addition. Due to having a corner lot, the only place they have for the addition is in the rear. There is an existing garage within 7.9' feet of the property line. The proposed addition will go no further in the back than the garage. Pictures of the property showing the back of the property were presented to the Board.

There was a variance with the previous owner granted in 1974 for the garage.

Chairman Crowley noted the house was built in the 50's as a pre-existing non-conforming lot.

Mr. Mallory questioned what type of house it was. The Monbleau's answered it is a one story ranch and the addition would be the same. Mr. Mallory asked what the bump out in the rear of the addition was for. It is for a fireplace bringing the rear setback to 30.1' from the property line.

The addition will stop 6" before the end of the garage.

Abutters: Who came forward in favor or in opposition? None.

A motion to close was made by Mr. Hamilton and seconded by Ms. Santiago-Hutchings. Mr. Hamilton will abstain from voting as he lives in the neighborhood. The Board voted unanimously to close.

A motion to approve the Special Permit was made by Mr. Michael Pagones and seconded by Mr. Scott Mallory. Mr. Pagones feel this meets the requirements for a Special Permit. The Board finds that the petitioner meets the following three requirements of the special permit: that the change does not (1) substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed; (2) create a danger to public safety by reason of traffic access, flow and circulation; and (3) be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed. The Board voted unanimously to approve.

A motion to approve the Variance was made by Mr. Michael Pagones and seconded by Mr. Scott Mallory. Mr. Pagones feels this meets the standard for a variance. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

2014-24 & 25 @ 29 Wyman Road – Special Permit 2.16.25 and Variance 2.12.50 to remove existing 13.1'x10.2' deck for proposed 13.1'x10.2' three season porch with insufficient side yard setback. Petitioner: Nicholas Petropoulos.

Chairman Crowley opened the meeting and signed in a set of prints drawn by James D. Aho, Professional Land Surveyor dated November 12, 2014.

Mr. Petropoulos stated he wants to remove the existing deck on his house and replace with a three season porch the same size. They use the back door on the deck as the main entrance to the house and would make it easier if the deck was enclosed due to weather elements. He has lived in the house for seven (7) years. The deck was existing with the original house.

Chairman Crowley explained this was part of a 40B project years ago and received a lot of waivers to build. He asked why the petitioner was before the Board if the deck was an existing structure. Mr. Petropoulos stated he went to the Building Department to pull a permit, but was told by the Building Inspector that he would need a variance.

Chairman Crowley recalls the Comprehensive Permit did not allow any further extension of the existing footprint. He would like to continue the hearing so he could have a discussion with the Building Inspector as to why this needs a variance and review the Comprehensive Permit to see if any further building is allowed.

Abutters: Who came forward in favor or in opposition? None.

A motion to continue to the January 15, 2015 meeting was made by Mr. Hamilton and seconded by Mr. Pagones. The Board voted unanimously to continue.

Acceptance of Minutes:

A motion to accept the November 20, 2014 minutes was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. The Board voted unanimously to accept the minutes.

Mascuppic Village Comprehensive Permit Update @ 780 Nashua Road:

Chairman Crowley had asked the Secretary to see what was submitted for Architectural drawings when the Comprehensive Permit was approved in 2006, but none were found. His recollection was that if the Board had received anything, it would have been the exterior elevations and not a great detail of the interior of the building. Attorney Smolak stated the final DHCD approval was issued May 20, 2014. There was a

discussion about the when the Architectural drawings dated May 25, 2014 were received. Mr. Coravos stated he brought them in this week. They had been working with the prints, then the new energy laws became effective July 1, 2014 and they had to update them. Chairman Crowley clarified that the original prints were altered to reflect some differences to the building code and/or to help mitigate the cost impact of the entire project. Chairman Crowley noted the Regulatory Agreement presented to the Selectmen was originally dated December 2013 with that date crossed out and May 20, 2014 written in when it was signed by them. It was recorded with the Registry of Deeds May 30, 2014. Chairman Crowley reviewed the December 19, 2013 minutes where the Board was told there were no substantial changes, but nowhere in the discussion there was mention of changes to the interior of the building. This may have impacted the Board's decision at the time to bring it back to a Public Hearing.

Chairman Crowley read an email from Mr. Edward Marchant to Ms. Toni Coyne of DHCD dated December 16, 2014 regarding the DHCD approval of the square footage difference in the finished spaces between the Market units and the Affordable units with a response from Ms. Coyne dated December 17, 2014 that DHCD agreed with this as per Attachment 7 and was part of the Final Approval for the Local Initiative Program.

Attorney Smolak noted that Attorney Hall had reviewed the Master Deed and Declaration of Trust. Under Section 15.3 of the Master Deed he suggested a minor change to the referenced Comprehensive Permit language. Attorney Smolak has made the change requested and presented the Board with the final Master Deed and Declaration of Trust. A motion to approve the Master Deed and Declaration of Trust as presented at this meeting was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. The Board voted unanimously to approve.

341 Broadway Road Comprehensive Permit third working session:

Attorney Deschenes and Mr. Parekh were present. A revised Comprehensive Permit was sent to the Board with the changes requested at the last meeting.

There was a discussion regarding the impact fee which was originally \$20,000 per building for a total of \$100,000, but since there are only four (4) buildings now, the total would be \$80,000. This money would be put in a fund for a specific purpose. During the length of time this project has gone on, the economics were significantly different ten years ago than they are today. Attorney Deschenes would like to make the Board an offer of \$12,500 per building with a total of \$50,000 conditioned on occupancy per building to be used for public safety improvement. After further review the Board felt this was a generous offer and agreed on the amended amount. Chairman Crowley will review with the Town Manager to see how best the money could be used such as sidewalk or lighting program.

The Board is in receipt of the last version of the Site Plan permitting prints dated October 1, 2014 and received October 31, 2014 understanding that the project still has to go through Conservation and some others that might create some changes. Attorney Deschenes stated he has referenced the plans that were delivered to the Board in the decision. These plans will be submitted to DHCD for final review and approval. After they receive final approval from DHCD, they will then have to file final plans based on the final peer review comments or any changes required by the decision and then bring back to the Board for final approval.

Chairman Crowley still needs some additional time to review the revised Comprehensive Permit to make sure all the changes the Board requested are included. The Board agreed to move to approve the Comprehensive Permit as written subject to final review by the Board Members with a date certain that by the end of the month all comments would need to be made. The signature page will be made available for the Board Members to sign.

A motion to approve the Comprehensive Permit with the addition that the petitioner will provide to the Board mitigation in the amount of \$12,500 per building upon occupancy permit for the individual buildings for a total of \$50,000 and that the Board Members will, prior to December 31, 2014, sign the final copy of the permit at the Building Inspector's Office was made by Mr. Stephen Hamilton and seconded by Ms. Heather Santiago-Hutchings. The Board voted unanimously to approve.

The permit will be signed by the five (5) active members which are Mr. John Crowley, Mr. Stephen Hamilton, Mr. Scott Mallory, Ms. Heather Santiago-Hutchings and Mr. Michael Pagones.

Next Meeting:

Thursday, January 15, 2015

Adjournment:

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. The Board voted unanimously to adjourn.

Board of Appeals Members

Chairman, John Crowley

Vice Chairman, Stephen Hamilton

Clerk, R. Scott Mallory

Member, Heather Santiago-
Hutchings

Member, Michael Pagones

Alternate Member, Brian Lussier

Alternate Member, Richard Ahern